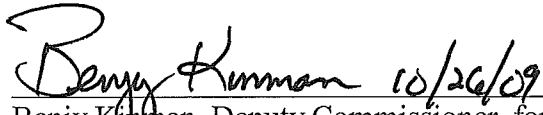



STATEMENT OF EMERGENCY
301 KAR 2:221E

- (1) This emergency administrative regulation establishes season dates, limits, shooting hours, and other requirements for hunting waterfowl.
- (2) Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season in Kentucky. An ordinary administrative regulation will not suffice because the federal framework is not established until days before the start of the waterfowl season.
- (3) This emergency administrative regulation shall be replaced by an identical ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler by November 15, 2009.


Benjy Kunman, Deputy Commissioner, for
Dr. Jonathan Gassett, Commissioner
Department of Fish and Wildlife Resources


Steven L. Beshear, Governor
Commonwealth of Kentucky

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Emergency Amendment)

4 301 KAR 2:221E. Waterfowl seasons and limits.

5 RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3),
6 ~~[150.600(1);] 150.990[, 50 C.F.R. Parts 20, 21]~~

7 STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. ~~[Parts]~~ 20, 21

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes ~~[and 150.600(1)~~

9 authorize] the department to promulgate administrative regulations to establish open seasons for

10 the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to

11 restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking

12 of waterfowl on public and private land. ~~[waterfowl season dates and limits.]~~ This administrative

13 regulation establishes procedures for the taking of waterfowl within reasonable limits and within

14 the frameworks established by 50 C.F.R. Parts 20 and 21. ~~[the limits and dates within federal~~

15 ~~waterfowl hunting frameworks established by 50 C.F.R. Part 20. EO 2008-516, effective June~~

16 ~~16, 2008 reorganizes and renames the Commerce Cabinet as the Tourism, Arts and Heritage~~

17 ~~Cabinet.]~~

18 Section 1. Definitions. (1) "Light Goose Conservation Order" ~~["Conservation Snow Goose~~

19 ~~Order"]~~ is defined by 50 C.F.R. 21.60. ~~[Parts 20 and 21.]~~

20 (2) "Dark goose" means a Canada goose, white-fronted goose, or brant.

21 (3) "Light Goose" ~~["Snow goose"]~~ means a snow goose or Ross's ~~[Ross']~~ goose.

(4) "Waterfowl" is defined in KRS 150.010(40).

Section 2. (1) Except as authorized by 301 KAR 2:222, ~~[301-KAR] 2:225, or [301-KAR] 2:226,~~
a person shall not hunt waterfowl except during the seasons established in this administrative
regulation. ~~[take waterfowl except on the dates and within the limits prescribed by this~~
~~administrative regulation.]~~

(2) Hunting zones, special hunt areas, ~~[areas]~~ and reporting areas are established in 301 KAR
2:224.

Section 3. ~~[Gun and Archery Season Dates and Bag Limits for Duck, Coot, and Merganser:~~

~~(1) Season dates:]~~ Season dates. (1) Duck, coot, and merganser:

(a) Beginning on Thanksgiving Day for four (4) consecutive days; and

(b) For fifty-six (56) consecutive days ending on the last Sunday in January of the following
year.

(2) Canada goose:

(a) Eastern, Pennyryle, and Western Goose Zones, beginning on November 23 for seventy (70)
consecutive days.

(b) Northeast Goose Zone:

1. Beginning on the Saturday following Christmas for nine (9) consecutive days; and

2. Beginning on January 19 for thirteen (13) consecutive days.

(3) White-fronted and brant geese, beginning on November 23 for seventy (70) consecutive days.

(4) Light goose:

(a) Beginning on November 23 for seventy (70) consecutive days; and

(b) Light Goose Conservation Order season:

1. Western Duck Zone: from February 1 through 5 and February 8 through March 31.

1 2. Eastern Duck Zone from February 1 through March 31.

2 (5) A person shall not hunt a light or dark goose in:

3 (a) The areas of Laurel River Lake as posted by sign; or

4 (b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36,
5 211, US 60, and Highway 826.

6 Section 4. In the Ballard Reporting Area that is established in 301 KAR 2:224:

7 (1) A person hunting waterfowl shall:

8 (a) Hunt from a blind unless hunting in flooded, standing timber;

9 (b) Not hunt from or establish a blind:

10 1. Within 100 yards of another blind; or

11 2. Within fifty (50) yards of a property line; and

12 (c) Not possess more than one (1) shotgun while in a blind.

13 (2) The requirements of subsection (1) of this section shall not apply if the Light Goose
14 Conservation Order, as established in 301 KAR 2:221, is the only waterfowl season open,
15 excluding falconry seasons.

16 Section 5. Bag and Possession Limits. (1) Ducks: The daily limit shall be six (6), that shall not
17 include more than:

18 a.

19 ~~[(a) All ducks except for canvasback, November 27 through January 25.~~

20 ~~(b) The season on canvasback shall be closed.~~

21 ~~(2) The gun and archery daily bag limit shall be:~~

22 ~~(a) Six (6) ducks, which shall not include more than:~~

23 ~~1-] Four (4) mallards; [mallards, which shall not include more than]~~

- 1 b. One (1) hen mallard;
2 c. [~~one (1)~~ hen mallard;
3 ~~2.] Three (3) wood ducks;~~
4 d. [~~3.] One (1) black duck;~~
5 e. [~~4.] Two (2) redheads;~~
6 f. [~~5.] One (1) pintail;~~
7 g. Two (2) scaup;
8 h. One (1) mottled duck; or
9 i. One (1) canvasback.
10 (2) Coot: Daily limit fifteen (15).
11 (3) Merganser: Daily limit five (5),
12 [~~6.Scaup;~~
13 a. ~~One (1) scaup from November 27 to January 5;~~
14 b. ~~Two (2) scaup from January 6 to January 25;~~
15 ~~7. Three (3) mottled ducks.~~
16 (b) ~~Fifteen (15) coots.~~
17 (c) ~~Five (5) mergansers,~~ which shall not include more than two (2) hooded mergansers.
18 [~~merganser.~~]
19 (4) Dark goose: Daily limit six (6), that shall not include more than:
20 (a) Two (2) Canada geese;
21 (b) Two (2) white-fronted geese; or
22 (c) Two (2) brants.
23 (5) Light goose: Daily limit twenty (20), except that there shall not be a limit during the Light

Goose Conservation Order season.

(6) The possession limit shall be double the daily limit, except that there shall not be a light
goose possession limit.

~~[(3) The possession limit shall be double the daily bag limit.~~

~~Section 4. Gun and Archery Seasons Dates and Bag Limits for Geese. (1) White-fronted goose
and brant season dates: November 23 through January 31.~~

~~(2) Snow goose season dates:~~

~~(a) Regular season: November 23 through January 31;~~

~~(b) Conservation Snow Goose Order;~~

~~1. The Western Duck Zone: February 1 through February 6 and February 9 through March 31.~~

~~2. Rest of state: February 1 to March 31.~~

~~(3) Canada goose season dates shall be from the starting date listed below through January 31.~~

~~(a) The Eastern Goose, Pennyroyal Coalfield, West-Central Kentucky, and Western Goose
Zones shall be open on November 23; and~~

~~(b) There shall be a split season in the northeast Kentucky goose zone:~~

~~1. December 27 through January 4 and~~

~~2. January 19 to January 31.~~

~~(4) A person shall not goose hunt in:~~

~~(a) The areas of Laurel River Lake as posted by sign; and~~

~~(b) Cave Run Lake and the public land inside a boundary formed by Highways 801, 1274, 36,
211, US 60 and Highway 826.~~

~~(5) The gun and archery daily bag limit shall be:~~

~~(a) Six (6) dark geese, to include no more than:~~

1. Two (2) Canada geese;

2. Two (2) white-fronted geese; and

3. Two (2) brant.

(b) Twenty (20) snow geese; except there shall be no daily limit on snow geese during the Conservation Snow Goose Order.

(6) The possession limit shall be double the daily bag limit, except that there shall not be a possession limit on snow geese.]

Section 6. [5.] Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) 2 p.m. in the Northeast Goose [Kentucky Hunt] Zone during a Canada goose season;

(2) Sunset in the remainder of the state, except as specified in 301 KAR 2:222; or

(3) One-half (1/2) hour after sunset if [while] hunting light goose [snow geese] during the Light Goose Conservation Order season. [Conservation Snow Goose Order.]

Section 7. [6.] Falconry Waterfowl Season and Limits. (1) Season dates:

(a) Light goose: [Snow geese:] November 5 through January 31; [31.]

(b) Light Goose Conservation Order season: [Conservation Snow Goose Order:]

1. Western Duck Zone: from February 1 through February 5 [6] and February 8 [9] through March 31.

2. Remainder of state: from February 1 through March 31; and [31.]

(c) Other waterfowl: [Canada Goose season:] November 5 through January 31. [February 1.]

(d) Other waterfowl: November 5 through February 1.]

(2) Daily limit: three (3) waterfowl, [waterfowl:] except that there shall not be a [be no] limit on

light goose [snow geese] during the Light Goose Conservation Order season. [Conservation

1 ~~Snow Goose Order.~~]

2 (3) Possession limit: six (6) waterfowl, [~~waterfowl~~]; except that there shall not be a possession
3 [~~be no~~] limit on light goose [~~snow-geese~~] during the Light Goose Conservation Order season.
4 [~~Conservation Snow Goose Order.~~]

5 Section 8. [~~7.~~] Permit for the Light Goose Conservation Order season. [~~Conservation Snow~~
6 ~~Goose Order.~~] (1) A person hunting light goose [~~snow-geese~~] during the Light Goose
7 Conservation Order season [~~Conservation Snow Goose Order~~] shall first obtain a free permit
8 from the department by contacting the Ballard WMA office. [~~office at (270) 224-2244.~~]

9 (2) A person hunting light goose [~~hunter~~] during the Light Goose Conservation Order season
10 [~~Conservation Snow Goose Order~~] shall submit a Light Goose Conservation Order
11 [~~Conservation Snow Goose Order~~] report to the department by April 10.

Approved by the Fish and Wildlife Commission August 14, 2009

Benjy Kimman 10/26/09

Benjy Kimman, Deputy Commissioner, for
Dr. Jonathan Gassett, Commissioner
Department of Fish and Wildlife Resources

Marcheta Sparrow

Marcheta Sparrow, Secretary
Tourism, Arts and Heritage Cabinet

10/26/09

Date

Regulatory Impact Analysis and Tiering Statement

301 KAR 2:221E. Waterfowl Seasons and Limits.

Contact Person: Rose Mack

(1) Provide a brief summary of:

- (a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons and bag limits within federal migratory bird hunting frameworks established in 50 CFR Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).
- (b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2009–10 waterfowl hunting seasons in accordance with the USFWS.
- (c) How does this administrative regulation conform to the authorizing statute: KRS 150.025 authorizes the department to establish hunting season dates and bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land.
- (d) How will this administrative regulation assist in the effective administration of the statutes: By establishing waterfowl hunting seasons and area-specific requirements, this administrative regulation is maintaining and managing waterfowl conservation efforts consistent with national and international management goals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change the existing administrative regulation: Each fall the USFWS issues a federal mandate establishing the framework for waterfowl hunting seasons. This amendment reflects the federal mandate regulations for waterfowl hunting under guidance of the Migratory Bird Treaty Act. Changes in the duck season dates are the result of a calendar shift. Federal frameworks permit a maximum 60-day season in the Mississippi Flyway. Kentucky will split duck season in 2009, using four days to accommodate hunters during the Thanksgiving weekend with the remaining 56 days open through the last Sunday in January as specified in the federal frameworks. In 2009, the season on canvasback ducks will once again be open, and the bag limit on scaup ducks will be two (2) birds per day for the entire duck season.
- (b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to this administrative regulation is to implement the federal mandate from the USFWS and continue efforts to increase quality hunting opportunity for waterfowl and migratory game birds.
- (c) How does the amendment conform to the authorizing statutes: See (1)(c) above.
- (d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that will be affected by this administrative regulation.

- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will have to review the hunting guide or website for the updated information to hunt legally during the specified season.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be continued opportunity to hunt waterfowl in the state.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: This administrative regulation change will result in no initial change in cost to the Kentucky Department of Fish and Wildlife Resources to administer.
 - (b) On a continuing basis: There will be no additional cost on a continuing basis.
- (6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any other fees or funding to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No new fees will be established.
- (9) TIERING: Is tiering applied? (Explain why tiering was or was not used) Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 301 KAR 2:221E

Contact Person: Rose Mack

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife. KRS 150.360(1) authorizes the department to promulgate administrative regulations to restrict the methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. States must adhere to 50 C.F.R. Parts 20 and 21 that establishes the U.S. Fish and Wildlife Service's Federal migratory bird hunting frameworks.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 CFR Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.
2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons which are within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 CFR Part 20, 21.
3. Minimum or uniform standards contained in the federal mandate. 50 CFR Part 20 contains season frameworks for the following: earliest opening and latest closing date, maximum number of days a species is open to hunting, and daily bag and possession limits. 50 CFR Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory limits that a state may permit. States are permitted to be more restrictive but not more liberal in their respective regulations. State waterfowl population migration and winter management objectives necessitate more restrictive regulations to protect local, regional and/or state stocks of birds important to Kentucky's waterfowl hunters. The season on snow geese is shorter than the federal framework because migration patterns for this species result in a paucity of birds early in the federal framework. The Canada goose season in the Northeast Goose Zone is shorter than is permitted in the rest of the state because of the desire to maintain a huntable population in that region of the state.